

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

Case No: 8:09-cv-910-T-33JSS

WELLCARE HEALTH PLANS, INC.,

Defendant.

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**ORDER**

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission's Motion for an Order to Establish a Fair Fund, Appoint a Tax Administrator, and to Authorize Payment of Future Tax Obligations, Fees, and Expenses of the Tax Administrator ("Motion"). (Dkt. 15.)

On May 18, 2009, the United States Securities and Exchange Commission ("the Commission") filed this action against Wellcare Health Plans, Inc. ("Wellcare"), alleging violations of federal securities laws. (Dkt. 1.) On June 1, 2009, a consent judgment was entered, which permanently enjoined Wellcare from further violations of law and required Wellcare to pay one dollar in disgorgement and a civil penalty of \$10,000,000. (Dkt. 4.) The judgment authorized the Commission to propose a plan to distribute the funds. (Dkt. 4 at 7.) Wellcare paid the judgment into the Court's registry in four installments. (Dkts. 5-8.) The Commission now moves to designate the funds in the Court registry as a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by the Dodd-Frank Act of 2010. (Dkt. 15.)

Under Section 308(a):

If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.

15 U.S.C. § 7246.

Accordingly, it is **ORDERED**:

1. Plaintiff Securities and Exchange Commission's Motion for an Order to Establish a Fair Fund, Appoint a Tax Administrator, and to Authorize Payment of Future Tax Obligations, Fees, and Expenses of the Tax Administrator (Dkt. 15) is **GRANTED**.
2. A Fair Fund is created pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. § 7246(a)], as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246] ("Fair Fund") and shall be comprised of and include the entire amount presently contained in the Court's registry established by the Clerk of the Court in this matter, including any accrued interest, minus appropriate expenses incurred establishing or maintaining the account.
3. Miller Kaplan Arase LLP is appointed as Tax Administrator ("Tax Administrator") to execute all income tax reporting requirements, including the preparation and filing of tax returns, for the Fair Fund.
4. Miller Kaplan Arase LLP shall be designated the Tax Administrator of the Fair Fund, pursuant to Section 468B(g) of the Internal Revenue Code ("IRC"), 26 U.S.C. § 468B(g), and related regulations, including but not limited to (a) obtaining a taxpayer identification number, (b) filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fair Fund, and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Fair Fund.

Upon request, the Tax Administrator shall provide copies of any filings to the Commission's counsel of record.

5. The Tax Administrator shall be entitled to charge reasonable fees and expenses for tax compliance services in accordance with its agreement with the Commission.
6. The Commission staff is authorized to approve and arrange payment of all future tax obligations and tax administrator fees and expenses owed by the Fair Fund directly from the Fair Fund without further order of the Court.

**DONE and ORDERED** in Tampa, Florida, on August 13, 2019.

  
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JULIE S. SNEED  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
Counsel of Record